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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/932,661

08/17/2001

Andrew Rodney Ferlitsch

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06/27/2006

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EXAMINER

POON, KING Y

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/932,661	FERLITSCH, ANDREW RODNEY	
	<b>Examiner</b>	<b>Art Unit</b>	
	King Y. Poon	2625	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 101*

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 16, 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claim 17: Computer signals in electronic transmissions claimed as computer listings per se, i.e., the descriptions or expressions of the signal, are not physical "things". In contrast, a claimed circuit (or another physical entity which can contain the signal) encoded with a signal is an element which defines structural and functional interrelationships between the signal and the rest of the machine to which the circuit could be used in (i.e. a computer) which permit the signal's functionality to be realized, and is thus statutory.

Claim 16 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 16 is drawn to non-functional descriptive material. MPEP 2106.IV.B.1(a) (Nonfunctional Descriptive Material) states:

"Descriptive material that cannot exhibit any functional interrelationship with the way in which computing processes are performed does not constitute a statutory process, machine, manufacture or composition of matter and should be rejected under 35 U.S.C. 101."

"Where certain types of descriptive material, such as music, art, photographs and mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship, either as

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part of the stored data or as part of the computing process performed by the computer, then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer."

"For example, music is commonly sold to consumers in the form of a compact disc. In such cases, the know compact disc acts as nothing more than a carrier for nonfunctional descriptive material. The purely nonfunctional descriptive material cannot alone provide the practical application for the manufacture."

MPEP 2106.IV.B.1 (Nonstatutory Subject Matter) states:

"When nonfunctional descriptive material is recorded on some computer-readable medium, it is not statutory since no requisite functionality is present to satisfy the practical application requirement".

Claim 16 currently recites computer readable medium comprising instruction

There is no functional relationship imparted by this data to a computing device.

Therefore, the claim is drawn to non-functional descriptive material which is non-statutory per se. The fact that the claim recites a computer readable medium does not provide the utility (i.e., practical application in the technological arts) required under 35 U.S.C. 101 for the manufacture.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 1 recites the limitation "executing a print job by accessing said index file" in line 5. There is insufficient antecedent basis for this limitation in the claim.

It is unclear the index file is referring to the index file of line 3 or the index file that has been manipulated of line 4.

Claim 8 recites the limitation "accessing said PISF index file to execute a print job" in line 7. There is insufficient antecedent basis for this limitation in the claim.

It is unclear the index file is referring to the index file of line 4 or the index file that has been manipulated of line 5.

Regarding claims 2-7, 9-12, 14: Claims 2-7, 9-12, 14 are rejected under 35 U.S.C. 112, second paragraph because they depend on rejected claims 1, 7.

For claim interpretation, the index file that is being accessed is the manipulated index file.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry et al (U.S. Patent No. 6,825,943) in view of Adobe PostScript.

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Regarding Claims 1, 8, 9: Barry teaches a method for providing collated, face-up printing, said method comprising: creating a spool data file; (the print job file that includes a temporary data file, column 3, lines 15-20); creating a Page-Independent index file from said spool data file; (updated spooled print file with updated control file, column 6, lines 10-15; note: the control file is being view as part of spooled print job file); manipulating said index file to effect document page manipulation options (column 4, lines 65-67, column 7, lines 55-65); executing a print job by accessing said index file (fig. 1b).

Barry also teaches his print job is implemented using PostScript (column 4, lines 60-65).

Barry et al does not explicitly disclose what these operating parameters are.

However, Postscript teaches the index file parameter includes collated face up printing (page 61, 62).

Therefore, it would have been obvious that index file parameter to be manipulated by Barry includes collated face up printing to fully utilized Postscript.

Regarding claim 2: Barry teaches wherein said spool data file is a Microsoft Windows Job Description File. (Barry et al discloses in column 1, lines 18-21 that Postscript is a popular means of describing documents for printing. One skilled in the art knows that Postscript can be used in the Windows operating environment, although it might not necessarily be termed a "MS windows job description file. Also see column 3, lines 40-45")

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Regarding claim 3: Barry teaches wherein said manipulation comprises changing the order in which pages are printed (collate, page 62, Postscript).

Regarding claim 4: Barry teaches wherein said index file comprises print job commands, page commands and page data.

See wherein Barry et al discloses in column, 6 lines 9-13 that "...the job control file 110, which contains operating parameters and program operators for controlling the operation of the processing of the print job file." These could read on the commands for the print job and the page.

Furthermore, Barry et al discloses in column 3, lines 27-29, a "language processor 120 for extracting information from the job control file 110..." Column 3, lines 42-48 gives an example that the language processor can extract data about the number of pages (i.e. page data).

Regarding claim 5: Barry teaches wherein said index file provides access to at least one Enhanced Metafile (EMF) file.

As mentioned above, in the rejection to claim 1, the print job file with the control file 110 can read on the index file. This control file 110 controls information in a print job file 104, but Barry et al does not explicitly disclose what format this print job file is in.

However, the applicant's disclosure of the prior art states in paragraph (0006) that EMF and raw are two common types of data that Windows typically uses. The examiner is also taking official notice that EMF and raw are two common types of data that Windows typically uses.

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use EMF or raw data in Barry et al's invention. The motivation would have been to use a widely recognized format for increased compatibility.

Regarding claim 6: Barry teaches wherein aid index file provides access to at least one raw format file.

See claim 5 above. Same rejection with raw data instead of EMF.

Regarding claim 7: Barry teaches wherein said manipulation of said index file comprises changing the side of a duplex page on which printing occurs (face up, page 62, Postscript; note: face up printing is an option; therefore, if the option is not selected, the printing page would not be face up. Otherwise, face up option is not required).

Regarding claim 10: Barry teaches the method of claim 9 are implemented in a print processor (column 3, lines 7-25).

Regarding Claim 11: Barry teaches wherein said creating, said manipulating and said accessing are accomplished through a spooler (fig. 1a).

Regarding claim 12: Barry teaches wherein said creating, said manipulating and said accessing are accomplished through a print assistant between a driver and a printer.

Barry et al discloses in column 3, lines 13-15, a "print driver 102." Also, column 3, lines 27-29 discloses a "language processor 120" and column 4, lines 19-20 discloses an "instruction operator 114." One can see from Fig. 1a and 1b that the language processor 120 or the instruction operator 114 can assist in the printing process.



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Regarding claim 13: Barry teaches a method for providing collated, face-up printing, said method comprising: initiating a print job for a document (print job, column 3, lines 10-15); creating a Page-Independent index file (updated spooled print job file, column 4, lines 60-67, column 6, lines 25-30); manipulating said index file to effect document page manipulation options (column 4, lines 65-67, column 7, lines 55-65); executing a print job by accessing said index file (fig. 1b).

Barry also teaches his print job is implemented using PostScript (column 4, lines 60-65).

Barry et al does not explicitly disclose what these operating parameters are.

However, Postscript teaches the index file parameter includes collated face up printing (page 61, 62).

Therefore, it would have been obvious that index file parameter to be manipulated by Barry includes collated face up printing to fully utilized Postscript.

Regarding claim 14: Barry teaches the method of claim 13 wherein said index file is produced by a print system component in a print system between a driver and a printer.

See rejection to claim 12 above.

Regarding claim 15: Barry teaches a printing system with driver-independent, printer-independent document formatting (Postscript, column 4, lines 60-67; Postscript format is driver independent because their standard does not change with driver), said system comprising: a print processor (fig. 1) comprising: an indexer for creating a page-independent index file; (the program that perform the updating process, column 6, lines

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25-30); a modifier for modifying said index file to effect document formatting options (column 4, lines 65-67); and a reader for accessing said manipulated index file to execute a modified print job (fig. 1b)).

Barry also teaches his print job is implemented using PostScript (column 4, lines 60-65).

Barry et al does not explicitly disclose what these operating parameters are.

However, Postscript teaches the index file parameter includes collated face up printing (page 61, 62).

Therefore, it would have been obvious that index file parameter to be manipulated by Barry includes collated face up printing to fully utilized Postscript.

Regarding claims 16, 17: Barry teaches computer-readable medium (note) comprising instructions for driver-independent, printer-independent collated, face-up printer output, said instructions comprising the acts of: creating a page-independent index file; manipulating said index file to effect document formatting options; and accessing said manipulated index file to execute a print job.

These limitations have been addressed in the rejection to claim 1.

Note: Barry teaches a program to implement his process (column 21, line 19) . It is inherent that a program is stored in a computer readable medium readable by a computer through computer data signal embodied in an electronic transmission.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

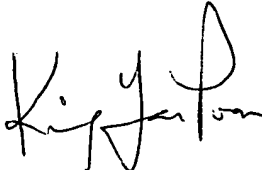
***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to King Y. Poon whose telephone number is 571-272-7440. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 21, 2006

  
KING Y. POON  
PRIMARY EXAMINER